IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6389 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

---

GIRAKISHAN BALAN PILLA B/O DETENU PANKAJ BALAN PILLA

Versus

COMMISSIONER OF POLICE

---

Appearance:

MR NM KAPADIA for Petitioner

RULE SERVED for Respondent No. 1, 2, 3

---

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 25/02/2000

ORAL JUDGEMENT

1. This special civil application has been filed by the brother of the detenu Pankaj Balan Pilla. The detention order was passed on 11th August, 1999 by the Police Commissioner, Surat City, whereby the detenu namely Pankaj Balan Pilla was detained under the

provisions of Gujarat Anti-social Activities Act (`PASA Act' for short), 1985. The detenu is in District Jail Bhavnagar Since the date of order of detention.

2. No reply to the petition has been filed by any of the respondents. It is, however, submitted by Mr. Gharaniya, learned A.G.P. that his representation has been rejected. The detention order has been confirmed by the Board. The grounds of detention enclosed with the detention order show that the petitioner was engaged in manufacturing of unauthorised liquor and in the year 1999, a criminal case under Prohibition Act was registered against the detenu and the same is pending trial and in that case he has been released on bail.

3. Having heard both the sides, I find from the grounds of detention that even if all the grounds as alleged against the petitioner are taken to be true on their face value, no case of breach of public order is made out, in view of several decisions of the Supreme Court in this regard. At the most it is a case of breach of law and order. The impugned detention order, therefore, cannot be sustained in the eye of law, as existence of threat to the public order is the pre-condition for detention order to be passed. The impugned detention order dtd. 11th August, 1999, passed by the Police Commissioner, Surat City, is hereby quashed and set aside. It is directed that the petitioner-detenu namely Pankaj Balan Pilla, detained in Bhavnagar Jail, shall be released forthwith, if not required under any other detention order or in any other criminal case. This Special Civil Application is allowed. Rule is made absolute.

**********

rafik